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ABSTRACT

This document defines some concepts of decentralization and outlines a number of legal problems inherent in the process. According to this paper, decentralization covers the spectrum from distribution of administrative functions to local board assumption of power. Some legal problems involve method of finance, abolition of old positions, and acquisition of new administrative skills needed under the new system. Not only must persons involved with educational legal problems find ways to experiment successfully, but they must also develop sound legal structures upon which to ensure the permanency of their experiments. (JF)

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DECENTRALIZATION

by
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As a professor (and I hope an educator), I hope to set the stage for problems to be discussed later in our meeting by discussing the general case for decentralization. Dr. Drachler has indicated that he would deal with a single city so I have taken the liberty to discuss the general topic.

In a recent copy of The School Administrator, Dr. Luvern L. Cunningham, Dean of the College of Education at Ohio State University, said:

> "The concept of decentralization must be the product of a sick mind. Otherwise, why would it drop bomb-like when we are inundated with so many other problems?"

As an educator, I found the statement easy to agree with when I spent a month in New York City during their strike over this very issue, while at the same time recognizing the "tongue in cheek" approach of Dr. Cunningham and knowing in my mind that it was happening because "happen it must." Dr. Cunningham, along with most educators, knows that decentralization is with us as a part of the deep-seated unrest of our time. Dr. Cunningham suggested in his article that

> ". . . decentralization is a spin-off of deep-seated and far-reaching problems in the larger society--problems that have to do with powerlessness, alienation, and distrust of all institutions . . . ."

I might suggest that one of the institutions most suspect by many distressed persons is the law.

Decentralization may fail to satisfy the deep-seated social problems which have caused it to be considered; we can in fact be sure that it will

EA 003 189

fail to satisfy all or nearly all of these problems. If this is true, why try? The answer lies in that organization never solves problems it just makes it possible to deal with them. We will always live with great stress in the schools so we had best be about the job of learning to understand this way of life.

In 1969, in the booklet "A Study of Urban Education, A Report by the Urban Studies Sub-Committee of the Tenth School Problems Commission, State of Illinois, the speaker said, "I believe the time for decentralization of the major urban school systems of America has come." I did not believe then nor do I believe today that a legalistic decentralization of power, responsibility or even finance would solve the problems of the cities. I did feel then and still believe that genuine decentralization--decentralization that gave some or much control to local communities--would help persons to believe in education again. If nothing else can be accomplished by decentralization this is worth the try, and I believe that much more can be accomplished.

Let me clarify what is meant by decentralization. For me, it covers the spectrum from administrative decentralization to turning real power over to local boards. The latter is commonly known as community control. The degree of decentralization will to some extent determine the legal problems involved. In the urban studies report based on a year and a half study that took me to Baltimore and New York plus extended contacts and visits in Illinois, I summarized some principles or concepts that I held

then despite the fact that some of them seem to be contradictory. However, they are for me still crucial and I would like to summarize these for your consideration as you think of the problems connected with decentralization.

a. Parents, particularly parents of minority groups, want "in on the action" of deciding the future educational opportunities of their children.

b. Many professional educators do not believe that parents should have anything to say about how students are educated, a well-disguised position but a real one nevertheless.

c. Different cities and different communities will find different kinds of decentralization desirable and workable. . . . .

d. Community control is misunderstood as it affects local school districts in schools outside of the major cities by many citizens and district board members, where they have been selected, in our large cities. Some of this misunderstanding has, in my judgment, come from the fact that despite statutes authorizing it, state officials have seldom "come down hard" on major city boards to force them to conform to state laws or the state's way of doing things. As a result, many urban dwellers observe local boards in suburbs and rural areas; they then ascribe the powers which they feel their city boards have always had to the local boards and say "give it to us." This position is based on not understanding real limits set for other boards, but it does help to explain some positions taken by city patrons. An example of what I am describing would be a newly created area, or district, boards in the city which feel that the power to hire and fire means just that. State law has been responsible for great stability of faculty in most states of the Union and for many reasons not related to urban problems, race or civil rights. . . . .

e. The uneducated citizen, as well as the educated, should understand what the school is doing for his children and whatever system of control used, that system must provide th information and must, in turn, be able to respond to the citizens' desires or demands without undue delay. . . . .

f. Decentralization of control or operation can only be accomplished without serious confrontations and bitterness if it is thoroughly planned before acting and the plan is conscientiously carried out by all parties.

g. The inactment of a proposal to decentralize is going to be difficult, if not impossible, unless a power outside the city establishes the rules for decentralization and enforces them. This I believe because of the vested interest of people in all cities that run counter to the result of decentralization. Only the state legislative body can, in my judgment, design or adopt and enforce a workable plan for decentralization. . . . .

h. Specific legislative resolution is almost never a good solution to a local problem, but legislative guidelines have, through many years, set up the limits of community control of local government and these have worked. Properly done, the legislatures of the several states can develop systems of guidelines for giving the people of major cities much more to say about their schools, much as the several legislatures have set up guidelines for the organization of school districts outside the major cities. It is even possible and may be desirable to enact into law guidelines that let the several cities of a state set up different decentralization plans. . . . .

i. Citizen interest in schools must be real and the schools must remain close to parents if the best learning situations are to develop. . . . .

j. Systems, whether educational or not, can get too big to be able to respond to individual needs. I believe our major cities have reached this point in education and, I suspect, in other fields as well. Someone in a radio interview recently seriously raised the question of whether New York City could be governed. Being governed or operated and responding to need and control may be two different things. The large systems, by their very bigness, make it extremely difficult for an individual to be heard.

k. When citizens, students and staff members discover that they cannot go through channels to be heard, they search out other ways. Examples of persons looking for other ways to express themselves are numerous; but student riots, teacher strikes, and demonstrations are all partial methods used to break outside, regular or non-responsive channels.

l. The major city school systems do many things well. Special schools, experimental projects and just plain good education can be found in abundance. Purchasing in many systems is extremely efficient, even though in some cases it takes too long to function. Excellent examples of this can be found while some cities still operate outmoded systems. Many outstanding spokesmen for education and its value are developed in the large cities. . . . .

m. When local or district boards are formed in communities, these boards and their administrative staff must know what powers they will have and what powers are to be reserved to the city and to the state in advance of the time which they are expected to exercise power.

n. Implied criticism of bigness or of the hierarchy of city school systems should be thought of separately from an evaluation of persons in the hierarchy. Most individuals with whom I have visited and whom I have observed in the cities are extremely competent and, in the jobs given them, I feel that they are generally excellent. Any implied criticism of the cities and their operation must be understood apart from an evaluation of the jobs done by individuals. I have seen few educators individually more competent than those found in the big cities.

The real legal problems it seems to me lie in a number of areas. In the interest of time, I merely list them.

1. Finance--we may decentralize expenditures but taxing, appropriations, and equalizing seem to present real problems. How to deal with finance while decentralizing causes the architects of legislation

many headaches.

2. Employees in a central system may not fit the jobs in a new structure--human obsolescence must be dealt with. Already many able administrators by the standards of yesterday have had their positions abolished or changed and they have been assigned to routine (sometimes clerical) duties. Social problems such as race complicate this problem further.

3. New administrative skills will have to be developed to cope with coordination rather than absolute control.

4. School men must learn to live with a certain amount of confusion as a way of life. This will include frequent court appearances.

5. Accountability systems must recognize that all solutions are not yet measurable and many such items are found in our large cities.

Each educational concept which I have alluded to is wrought with legal problems. Our task as educational legal persons or legal educators is to find ways to make experiments work while developing sound legal structures to assure their success. The legal field from local board regulations to state statutes to Supreme Court decisions will look very different when decentralization has been accomplished. Local boards may have vastly different duties, state statutes will allow different things to happen rather than require conformity, and since 1954 the Supreme Court has become more and more involved in education at all levels

and for social as well as educational purposes.

If we are to save our urban educational systems, some workable organization will have to develop. Decentralization in all of its aspects may serve only as a beginning.

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